

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

2010 MAR 31 PM 4:34

DEPUTY CLERK

ORDER OF DISMISSAL AND SANCTION

The instant cause was received on August 28, 2009 by transfer from the United States District Court for the Southern District of Texas, to the United States District Court for the Northern District of Texas, Amarillo Division.

Plaintiff ANDREW DAVIDSON, acting pro se and while a prisoner confined in the Texas Department of Criminal Justice, Correctional Institutions Division, filed suit pursuant to Title 42, United States Code, section 1983 complaining against defendants employed by or otherwise associated with the Texas Department of Criminal Justice and has been granted permission to proceed in forma pauperis.

On November 19 2009, the Magistrate Judge issued a Report and Recommendation that this cause be dismissed as malicious and as frivolous. Further, on November 20, 2009, the Court issued a show cause order giving plaintiff fourteen days in which top show cause why he should not be sanctioned for the submission of a document in violation of Rule 11(b)(1) and 11(b)(2), Federal Rules of Civil Procedure. Plaintiff's only response has been to file a motion to dismiss.

Plaintiff has not addressed the basis for the recommended dismissal of this cause nor has he shown cause why he should not be sanctioned for the acts outlined in the Order to Show Cause.

The Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation, the Order to Show Cause, and plaintiff's motion to dismiss. The Court is of the opinion that the Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court.

This Court, therefore, does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge in this case.

IT IS THEREFORE ORDERED that the Civil Rights Complaint by plaintiff ANDREW DAVIDSON is DISMISSED WITH PREJUDICE AS MALICIOUS AND AS FRIVOLOUS.

This dismissal shall be counted as a "strike" for purposes of Title 28, United States Code, section 1915(g).

LET JUDGMENT BE ENTERED ACCORDINGLY.

SANCTION

The Court finds plaintiff attempted to circumvent the judgment of this Court in cause no. 2:07-CV-0268 by filing the instant cause in the United States District Court for the Southern District of Texas, which then transferred this cause to this, the United States District Court for the Northern District of Texas, Amarillo Division. Plaintiff's conduct violated Rule 11(b)(1) and 11(b)(2), Federal Rules of Civil Procedure.

IT IS HEREBY ORDERED:

In light of this violation of Rule 11(b), Federal Rules of Civil Procedure, A MONETARY SANCTION OF \$15.00 IS ASSESSED, to be satisfied from plaintiff's inmate trust account, or institutional equivalent.

Upon receipt of this Order, prison officials shall remove from the inmate trust of ANDREW DAVIDSON, TDCJ-CID No. 525545, all funds up to the amount of \$15.00 and shall forward such funds to the Court. Thereafter, 50% of each deposit into plaintiff's inmate trust account shall be forwarded to the Court until the \$15.00 sanction is satisfied in full.

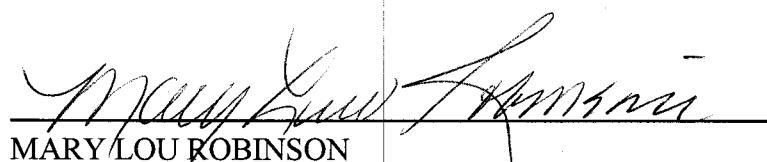
Any pending motions are DENIED.

The Clerk shall mail a copy of this Order to Nolan Glass, P.O. Box 629, Huntsville, Texas 77342-0629.

The Clerk shall send a copy of this order to plaintiff and to any attorney of record. The Clerk shall also mail copies of this order to TDCJ-Office of the General Counsel, P.O. Box 13084, Austin, TX 78711; and to the Pro Se Clerk at the U.S. District Court for the Eastern District of Texas, Tyler Division.

It is SO ORDERED.

Signed this the 31ST day of March, 2010.


MARY LOU ROBINSON
United States District Judge